

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

TQ DELTA, LLC,)	
)	
Plaintiff,)	C.A. No. 13-cv-1835-RGA
)	
v.)	
)	
2WIRE, INC.,)	
)	
Defendant.)	

**[PROPOSED] JOINT PRETRIAL ORDER FOR FAMILY 3 – INFRINGEMENT AND
VALIDITY PHASE**

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Plaintiff TQ Delta, LLC and 2Wire, Inc. jointly submit this Pretrial Order pursuant to Federal Rule of Civil Procedure 16, District of Delaware Local Rule 16.3, and the Court's Final Scheduling Order, D.I. 513. The pretrial conference is scheduled for May 10, 2019 at 8:30 a.m., and a subsequent jury trial against 2Wire in Civil Action No. 13-cv-1835-RGA (for issues of infringement and validity for the Family 3 Patents per the Court's Oral Order, D.I. No. 1045) will take place starting on May 20, 2019 and is scheduled to last for 5 days.

This order shall control the subsequent course of the action, unless modified by the Court.

I. NATURE OF THE CASE

1. TQ Delta is the owner by assignment of a portfolio of patents relating to digital subscriber line ("DSL") technology, including for example asymmetric digital subscriber line ("ADSL") technology and very-high-bit-rate digital subscriber line ("VDSL") technology. DSL allows existing telephone lines to be used for high speed data communication, including broadband access to the Internet.

2. The Family 3 patents being asserted by TQ Delta against 2Wire are U.S. Patent Nos. 7,836,381 ("381 Patent"), 7,844,882 ("882 Patent"), and 8,276,048 ("048 Patent), and 8,495,473 ("473 Patent," whose inclusion is currently pending a motion for reconsideration) (collectively "the Asserted Family 3 patents").¹ TQ Delta asserts claim 5 of the '381 patent, claim 13 of the '882 patent, and claim 1 of the '048 patent (collectively "the Asserted Claims").

3. 2Wire makes DSL equipment (e.g., DSL gateways or modems) that TQ Delta accuses of infringing the Asserted Claims.

¹ 2Wire understands that TQ Delta intends to move for reconsideration of the Court's April 25, 2019 Order granting summary judgment in favor of 2Wire with respect to claim 19 of the '473 patent. TQ Delta has not, as of the date of this submission, filed or served that motion. 2Wire reserves all rights with respect to said motion. Unless the Court grants TQ Delta's motion for reconsideration, it is 2Wire's position that the '473 patent is no longer part of the Family 3 trial because, as explained elsewhere by 2Wire, TQ Delta only pursued a direct infringement theory with respect to claim 19 of the '473 patent and that theory has now been rejected.

A. PROCEDURAL HISTORY

4. On November 4, 2013, TQ Delta filed a complaint against Pace Americas, Inc. alleging infringement of 19 U.S. patents. D.I. 1. On November 20, 2013, TQD filed a First Amended Complaint (“FAC”) adding five additional patents, including the Asserted Family 3 patents. D.I. 6. TQD filed a Second Amended Complaint (“SAC”) on February 7, 2014 in response to arguments raised in a Motion to Dismiss. D.I. 24. TQD filed a Third Amended Complaint on October 13, 2017 in response to arguments raised in a Motion to Dismiss relating to its indirect infringement claims. D.I. 380.

5. On March 27, 2018, 2Wire filed its Answer, Affirmative Defenses, and Counterclaims to TQ Delta’s Third Amended Complaint, in which 2Wire denied TQ Delta’s allegations of infringement, and asserted various affirmative defenses including, but not limited to, TQ Delta’s failure to comply with 35 U.S.C. § 287. D.I. 505. In its Counterclaims, 2Wire asserted a declaratory judgment action seeking, *inter alia*, a declaration that each of the asserted patents is invalid for failure to meet the requirements of one or more sections of 35 U.S.C. §§ 101 *et seq.* and that 2Wire does not infringe any valid and enforceable claim of those patents. *Id.* 2Wire further asserted a claim that TQ Delta breached its contract with the ITU to license its patents on FRAND terms.

6. The Court’s Final Scheduling Order divided the case against 2Wire into separate trials such that only a single patent family will be at issue in any single jury trial. D.I. 513. The Court recently ordered that the issues from Family 3 relating to “Damages and FRAND” will be tried at a later date, after issues of infringement and validity are determined. D.I. No. 1045. Accordingly, the infringement and validity case is scheduled to go to trial on May 20, 2019 with respect to TQ Delta’s “Family 3 Patents.” *Id.*

II. FEDERAL JURISDICTION

7. This action arises under the Patent Laws of the United States, 35 U.S.C. § 101 et seq., including 35 U.S.C. § 271. This Court has subject matter jurisdiction over TQ Delta's claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

8. Venue is proper in the District of Delaware pursuant to 28 U.S.C. §§ 1391, §1400(b). Venue is not disputed.

9. TQ Delta owns all right, title, and interest in the Asserted Family 3 patents. Standing is not disputed.

III. FACTS WHICH ARE ADMITTED AND REQUIRE NO PROOF

10. The parties' joint statement of facts which are admitted and require no proof is attached as Exhibit 1.

IV. ISSUES OF FACT WHICH REMAIN TO BE LITIGATED

11. TQ Delta's statement of issues of fact which remain to be litigated is attached as Exhibit 2. 2Wire's statement of issues of fact which remain to be litigated is attached as Exhibit 3.

V. ISSUES OF LAW WHICH REMAIN TO BE LITIGATED

12. TQ Delta's statement of issues of law which remain to be litigated is attached as Exhibit 4. 2Wire's statement of issues of law which remain to be litigated is attached as Exhibit 5.